and urinals test procedure final rule] representations with respect to the water consumption of water closets and urinals must be made in accordance with tests conducted pursuant to this appendix, manufacturers may wish to begin using this test procedure as soon as possible.

0. Incorporation by reference

DOE incorporated by reference in § 430.3, the entire standard for ASME A112.19.2–2018; however, only enumerated provisions of that document apply to this appendix, as follows:

a. Section 7.1.2 ''Gravity flush tank water closets,'' as specified in section 2.a of this appendix;

b. Section 7.1.3 ''Flushometer tank, electro-hydraulic, or other pressurized flushing device water closets,'' as specified in section 2.a of this appendix;

c. Section 7.1.4 ''Flushometer valve water closets,'' as specified in section 2.a of this appendix;

d. Section 7.1.5 ''Procedures for standardizing the water supply system,'' as specified in section 2.a of this appendix;

e. Section 7.3 ''Water consumption test,'' as specified in section 3.a of this appendix;

f. Section 8.2.1, as specified in section 2.b of this appendix;

g. Section 8.2.2, as specified in section 2.b of this appendix

h. Section 8.2.3, as specified in section 2.b of this appendix;

i. Section 8.6 ''Water Consumption Test,'' as specified in section 3.b of this appendix;

j. Table 5 ''Static test pressures for water closets, kPa (psi),'' as specified in section 2.a and 3.a of this appendix; and

k. Table 6 ''Static test pressures for urinals, kPa (psi)'' as specified in section 2.a and 3.a of this appendix.

In cases where there is a conflict, the language of the test procedure in this appendix takes precedence over ASME A112.19.2–2018.

1. *Scope:* This appendix covers the test requirements used to measure the hydraulic performances of water closets and urinals.

2. Test Apparatus and General Instructions

a. When testing a water closet, use the test apparatus and follow the instructions specified in sections 7.1.1 (including Table 5), 7.1.2, 7.1.3, 7.1.4, and 7.1.5 of ASME A112.19.2–2018 (incorporated by reference, see § 430.3). The flushometer valve used in the water consumption test must represent the maximum design flush volume of the water closet. Record each measurement at the resolution of the test apparatus. Round each calculation of water consumption for each tested unit to the same number of significant digits as the previous step.

b. When testing a urinal, use the test apparatus and follow the instructions specified in sections 8.2.1, 8.2.2, and 8.2.3 (including Table 6) of ASME A112.19.2–2018. The flushometer valve used in the water consumption test must represent the maximum design flush volume of the urinal. Record each measurement at the resolution of the test apparatus. Round each calculation of water consumption for each tested unit to the same number of significant digits as the previous step.

3. Test Measurement

a. Water closets:

(i) Measure the water flush volume for water closets, expressed in gallons per flush (gpf) and liters per flush (Lpf), in accordance with section 7.3, Water Consumption Test, of ASME A112.19.2–2018 (incorporated by reference, see § 430.3). For dual-flush water closets, the measurement of the water flush volume shall be conducted separately for the full-flush and reduced-flush modes and in accordance with the test requirements specified section 7.3, Water Consumption Test, of ASME A112.19.2–2018. The final measured flush volume for each tested unit is the average of the total flush volumes recorded at each test pressure as specified in Table 5 ''Static test pressures for water closets, kPa (psi),'' of ASME A112.19.2–2018.

(ii) Flush volume and tank trim component adjustments: For gravity flush tank water closets, set trim components that can be adjusted to cause an increase in flush volume, including (but not limited to) the flapper valve, fill valve, and tank water level, in accordance with the installation instructions supplied by the manufacturer with the unit. If the installation instructions for the model to be tested do not specify trim setting adjustments, adjust these trim components to the maximum water use setting so that the maximum flush volume is produced without causing the water closet to malfunction or leak. Set the water level in the tank to the maximum water line designated in the installation instructions supplied by the manufacturer or the designated water line on the tank itself, whichever is higher. If the printed installation instructions or the water closet tank do not indicate a water level, adjust the water level to 1 ± 0.1 inches below the top of the overflow tube or 1 ± 0.1 inches below the top rim of the water-containing vessel (for gravity flush tank water closets that do not contain an overflow tube) for each designated pressure specified in Table 5 of ASME A112.19.2–2018.

b. Urinals—Measure water flush volume for urinals, expressed in gallons per flush (gpf) and liters per flush (Lpf), in accordance with section 8.6, Water Consumption Test, of ASME A112.19.2–2018. The final measured flush volume for each tested unit is the average of the total flush volumes recorded at each test pressure as specified in Table 6 ''Static test pressures for urinals, kPa (psi),'' of ASME A112.19.2–2018.

■ 6. Section 430.32 is amended by revising paragraph (q) to read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(q) *Water closets.* (1) The maximum water use allowed in gallons per flush for any of the following water closets manufactured after January 1, 1994, shall be as follows:

Water closet type	Maximum flush rate (gpf (Lpf))
(i) Gravity flush tank water closet	1.6 (6.0)
(ii) Flushometer tank water closet	1.6 (6.0)
(iii) Electromechanical hydraulic water closet	1.6 (6.0)
(iv)Blowout bowl water closet	3.5 (13.2)

(2) The maximum water use allowed for flushometer valve water closets, other than those with blowout bowls, manufactured after January 1, 1997, shall be 1.6 gallons per flush (6.0 liters per flush).

* * * * *

[FR Doc. 2021–09695 Filed 5–19–21; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2019–BT–TP–0025]

RIN 1904–AE55

Energy Conservation Program: Test Procedure for Commercial Prerinse Spray Valves

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The U.S. Department of Energy (''DOE'') proposes to amend the test procedures for commercial prerinse spray valves to incorporate by reference the current version of the relevant industry standard, *i.e.,* ASTM F2324. ASTM F2324 (2019) is a reaffirmation of the industry standard currently incorporated by reference in the DOE test procedure for commercial prerinse spray valves and as such, this proposal would not substantively change the current test procedure. DOE also proposes to amend the commercial prerinse spray valves definition to codify existing guidance on the application of the definition. DOE is seeking comment from interested parties on the proposal.

DATES: DOE will accept comments, data, and information regarding this proposal no later than July 19, 2021. See section V, ''Public Participation,'' for details.

Meeting: DOE will hold a webinar on this proposed rule on Wednesday, June 9, 2021, from 10:00 a.m. to 3:00 p.m. See section V, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants

Comments: DOE will accept comments, data, and information regarding this notice of proposed rulemaking on or before July 19, 2021. See section V, ''Public Participation,'' for details.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit, identified by docket number EERE–2019–BT–TP–0025, following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email:* to *CPSV2019TP0025@ee.doe.gov.* Include docket number EERE–2019–BT–TP–0025 in the subject line of the message.

No telefacsimilies (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including *the Federal eRulemaking Portal, email, postal mail, or* hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid-19 pandemic. DOE is currently accepting only electronic submissions at this time. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the Covid-19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if a public meeting is held), comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *https://www.regulations.gov/docket/EERE-2019-BT-TP-0025.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW, Washington, DC, 20585–0121. Telephone: (202) 586–0371. Email *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Kathryn McIntosh, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC, 20585–0121. Telephone: (202) 586–2002. Email: *Kathryn.McIntosh@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in a public meeting (if one is held), contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE proposes to incorporate by reference the following industry standard into 10 CFR part 431: ASTM Standard F2324–13 (R2019), ''Standard Test Method for Prerinse Spray Valves;'' Reapproved 2019 (''ASTM F2324–13 (R2019)'').

Copies of ASTM F2324–13 (R2019) can be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959, or by going to *www.astm.org.*

For a further discussion of these standards, see section IV.M.

Table of Contents

I. Authority and Background

Commercial prerinse spray valves (''CPSV'' or ''CPSVs'') are included among the covered products for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6291(33); 42 U.S.C. 6293(b)(14); 42 U.S.C. 6295(dd)) DOE's energy conservation standards and test procedures for commercial prerinse spray valves are currently prescribed at 10 CFR part 431 subpart O.[1] The following sections discuss DOE's authority to establish test procedures for CPSVs and the relevant background information regarding DOE's consideration of test procedures for this product.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[2] authorizes DOE to regulate the energy efficiency of several consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [3] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency, which includes CPSVs. EPCA provides definitions for commercial prerinse

[1] Because Congress included commercial prerinse spray valves in Part valves in Part B of Title III of EPCA, the consumer product provisions of Part B (not the industrial equipment provisions of Part C) apply to commercial prerinse spray value. However, because commercial prerinse spray valves are commonly considered to be commercial equipment, as a matter of administrative convenience and to minimize confusion among interested parties, DOE placed the requirements for commercial prerinse spray valves into subpart O of 10 CFR part 431. Part 431 contains DOE regulations for commercial and industrial equipment. DOE refers to commercial prerinse spray valves as either ''products'' or ''equipment.''

[2] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

[3] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

spray valves under 42 U.S.C. 6291(33), the test procedure under 42 U.S.C. 6293(b)(14), and energy conservation standards for flow rate under 42 U.S.C. 6295(dd).

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) Making representations about the efficiency of those consumer products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

With respect to CPSVs, EPCA requires DOE to use ASTM Standard F2324 (''ASTM F2324'') as the basis for the test procedure for measuring flow rate. (42 U.S.C. 6293(b)(14))

Further, EPCA requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered product, including CPSVs, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A))

If the Secretary determines, on his own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. (42 U.S.C. 6293(b)(2)) The comment period on a proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days.[4] *Id.* In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved. *Id.* If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. DOE is publishing this notice of proposed rulemaking (''NOPR'') in satisfaction of the 7-year review requirement specified in EPCA. (42 U.S.C. 6293(b)(1)(A))

B. Background

DOE's existing test procedures for CPSVs appear at 10 CFR part 431, subpart O. DOE most recently amended the test procedure for CPSVs in a final rule published December 30, 2015, in which DOE incorporated by reference the 2013 version of ASTM F2324 (''ASTM F2324–13''). 80 FR 81441 (''December 2015 Final Rule''). Also during the December 2015 Final Rule, DOE revised the definition of ''commercial prerinse spray valve,'' made minor adjustments to the DOE flow rate test method, and included a definition of ''spray force'' as well as added a test method for measuring the spray force of CPSVs. In 2019, ASTM reaffirmed the 2013 standard (''ASTM F2324–13 (2019)''). The 2019 version contains no changes from the 2013 version.

On June 5, 2020, DOE published a request for information soliciting public comment and data on all aspects of the existing DOE test procedure for CPSVs, including (1) the scope and definition of the test procedure, (2) incorporation of the reaffirmed industry standard, and (3) the representativeness of the test water pressure. 85 FR 34541 (''June 2020 RFI''). DOE also received a comment requesting an extension of the original comment period and on July 21, 2020, DOE reopened the comment period for an additional 30 days to close on August 20, 2020. 85 FR 44026.

DOE received comments in response to the June 2020 RFI from the interested parties listed in Table I.1.

TABLE I.1—WRITTEN COMMENTS RECEIVED IN RESPONSE TO JUNE 2020 RFI

Organization(s)	Reference in this NOPR	Organization type
Plumbing Manufacturers Inc	PMI	Trade Association.
Pacific Gas and Electric Company (''PG&E''), San Diego Gas and Electric (''SDG&E''), and Southern California Edison (''SCE'').	CA IOUs	Utilities.
Northwest Energy Efficiency Alliance	NEEA	Efficiency Organization.

[4] DOE has historically provided a 75-day comment period for test procedure NOPRs, consistent with the comment period requirement for technical regulations in the North American Free Trade Agreement, U.S.-Canada-Mexico (''NAFTA''), Dec. 17, 1992, 32 I.L.M. 289 (1993); the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057 (1993) (codified as amended at 10 U.S.C.A. 2576) (1993) (''NAFTA Implementation Act''); and Executive Order 12889, ''Implementation of the North American Free Trade Agreement,'' 58 FR 69681 (Dec. 30, 1993). However, Congress repealed the NAFTA Implementation Act and has replaced NAFTA with the Agreement between the United States of America, the United Mexican States, and the United Canadian States (''USMCA''), Nov. 30, 2018, 134 Stat. 11, thereby rendering E.O. 12889 inoperable. Consequently, since the USMCA is consistent with EPCA's public comment period requirements and normally requires only a minimum comment period of 60 days for technical regulations, DOE now provides a 60-day public comment period for test procedure NOPRs.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[5]

II. Synopsis of the Notice of Proposed Rulemaking

In this NOPR, DOE proposes to update 10 CFR 431.264, ''Uniform test method for the measurement of flow rate for commercial prerinse spray valves,'' as follows:

- Amend the CPSV definition to codify existing guidance on the application of the definition; and
- Incorporate by reference the reaffirmed industry standard—ASTM F2324–13 (2019), ''Standard Test Method for Prerinse Spray Valves.''

Table II.1 summarizes DOE's proposed action compared to the current test procedure, as well as the reason for the proposed change.

TABLE II.1—SUMMARY OF CHANGES IN PROPOSED TEST PROCEDURE RELATIVE TO CURRENT TEST PROCEDURE

Current DOE test procedure	Proposed test procedure	Attribution
A ''commercial prerinse spray valve'' is defined as ''a handheld device that has a release-to-close valve and is suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment''.	Amends the commercial prerinse spray valves definition to codify existing guidance on the factors DOE considers to determine whether the spray valve meets the suitability requirement in the definition. The proposed amendment does not change the scope of the definition.	Clarification of scope.
References the ASTM F2324–13	References reaffirmed industry standard-ASTM F2324–13 (2019).	Industry TP Reaffirmed in 2019.

DOE has tentatively determined that the proposed amendments described in section III of this document would not alter the measured flow rate or spray force of CPSVs, and that the proposed test procedures would not be unduly burdensome to conduct. Discussion of DOE's proposed actions are addressed in detail in section III of this document.

III. Discussion

A. Scope and Definition

''Commercial prerinse spray valve'' is defined as ''a handheld device that has a release-to-close valve and is suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment.'' 10 CFR 431.262. In the June 2020 RFI, DOE requested comment as to how manufacturers are currently applying the existing definition and if any modifications to the definition are needed to more appropriately include or exclude products. 85 FR 34541, 34543.

In response to the June 2020 RFI, PMI commented that manufacturers are applying the current definition to CPSVs distributed and sold as part of a unit (*e.g.,* included with a wall mount, hose, overhead spring, etc.) and separately, typically as a replacement to a unit. (PMI No. 5 at p. 3) NEEA recommended that DOE review the definition to ensure that manufacturers and market actors are clear on which products must comply. NEEA stated that many valves on the market appear to meet the definition of CPSV but have flow rates above the energy conservation standard. (NEEA, No. 6 at p. 1) Specifically, NEEA referenced comments it submitted in response to an energy conservation standards RFI, regarding CPSVs[6] in which NEEA identified products that it stated appear to meet the definition of CPSV, but have represented flowrates above the current CPSV standard and/or are not included in DOE's Compliance Certification Management System. 85 FR 35383 (June 10, 2020) (NEEA, No. 6 at p. 1, referencing Docket No. EERE–2019–BT–STD–0034–0007 at p. 2) NEEA recommended that DOE conduct an investigation to ensure all products on the market comply with the standard. (NEEA, No. 6 at p. 1)

When surveying the market, DOE notes that a basic model of CPSVs may include more than one individual CPSV model. For the purpose of CPSVs, a basic model is defined as ''all spray settings of a given class manufactured by one manufacturer, which have essentially identical physical and functional (or hydraulic) characteristics that affect water consumption or water efficiency.'' 10 CFR 431.262. For each basic model that is subject to an applicable energy conservation standard, manufacturers must submit a certification report to DOE in accordance with the general requirements set out in 10 CFR 429.12 and the requirements specific to CPSVs at 10 CFR 429.51(b).

DOE recognizes that representations may be made by third-party retailers and distributers in addition to those by manufacturers. DOE reiterates that EPCA prohibits manufacturers, distributors, retailers, and private labelers of CPSVs from making any representation in writing (including a representation on a label) or in any broad advertisement, with respect to the energy use or efficiency or water use of a covered product to which a test procedure is applicable, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing. (42 U.S.C. 6293(c))

NEEA further stated that if necessary, DOE should also consider revisiting the definition for CPSV to ensure that manufacturers and market actors are clear on which products must comply to avoid non-compliance in the future. (NEEA, No. 6 at p. 1)

As explained in the June 2020 RFI and the December 2015 Final Rule, in determining whether a product is suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment, DOE considers various factors including channels of marketing and sales, product design and descriptions, and actual sales to determine the spray valve's actual use in conjunction with commercial dishwashing and ware washing equipment. 85 FR 34541, 34543; 80 FR 81441, 81444. For example, a product

[5] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop test procedures for CPSVs. (Docket No. EERE–2019–BT–TP–0025, which is maintained at *www.regulations.gov/#!docketDetail;D=* EERE–2019–BT–TP–0025). The references are arranged as follows: (Commenter name, comment docket ID number, page of that document).

[6] On June 10, 2020, DOE initiated an early assessment review to determine whether any new or amended standards would satisfy the relevant requirements of EPCA for a new or amended energy conservation standard for commercial prerinse spray valves. 85 FR 35383 (''June 2020 ECS RFI'').

marketed or sold through outlets that market or sell to food service entities such as restaurants or commercial or institutional kitchens is more likely to be considered suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment as compared to a product sold exclusively through outlets catering to pet care. *Id.* Similarly, a product marketed outside of the United States as suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment would be considered similarly suitable if distributed in the United States. *Id.* DOE also considers how a product is marketed and sold to end users, including how the product is identified and described in product catalogs, brochures, specification sheets, and communications with prospective purchasers. *Id.* Additionally, DOE considers actual sales, including whether the end-users are restaurants or commercial or institutional kitchens, even if those sales are indirect through an entity such as a distributor. *Id.*

In order to provide further certainty as to the definition of ''commercial prerinse spray valve'' DOE is proposing to amend the definition to include previously provided guidance on determining whether equipment is suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment.

Specifically, DOE proposes to define a ''commercial prerinse spray valve'' as ''a handheld device that has a release-to-close valve and is suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment. DOE may determine that a device is suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment based on any or all of the following: (1) Equipment design and representations (for example, whether equipment is represented as being capable of rinsing dishes as compared to equipment that is represented exclusively for washing walls and floors); (2) Channels of marketing and sales (for example, whether equipment is marketed or sold through outlets that market or sell to food service entities); (3) Actual sales.''

The proposed amendment to the definition of ''commercial prerinse spray valve'' is not intended to change the scope of the definition. DOE is not proposing to cover equipment as a CPSV that is not already covered under the current definition. The proposal would codify in the CFR existing guidance on the application of the current definition. By codifying the guidance, manufacturers would have further certainty as to the application of the definition.

DOE requests comments on the proposed definition of CPSVs.

B. Updates to Industry Standards

Currently, DOE's test procedure for CPSVs at 10 CFR 431.263 incorporates by reference ASTM F2324–13. The specific sections of ASTM F2324–13 that are applicable to the test method in 10 CFR 431.264 are the test methods for measuring flow rate at sections 6.1 through 6.9 (except 6.4 and 6.7), 9.1 through 9.4, and 10.1 through 10.2.5 of ASTM F2324–13. 10 CFR 431.264(b)(1). The DOE test procedure incorporates the corresponding calculations in section 11.3.1 of ASTM F2343–13. For the spray force test method, the DOE test procedure incorporates by reference sections 6.2, 6.4 through 6.9, 9.1 through 9.5.3.2, and 10.3.1 through 10.3.8 of ASTM F2324–13. 10 CFR 431.264(b)(2).

Since publication of the December 2015 Final Rule, ASTM F2324–13 has been reaffirmed as the industry test procedure ASTM F2324–13 (2019). The 2019 version contains no changes from the 2013 version. In the June 2020 RFI, DOE requested comment on updating the referenced industry standard to ASTM F2324–13 (2019) and confirmation that this change would not result in any changes to the DOE test procedure. 85 FR 34541, 34543. In response, PMI commented that it supports incorporating the reaffirmed industry standard. (PMI, No. 5 at p. 4) DOE did not receive any comments in opposition to this inquiry. In this NOPR, DOE proposes to update the CPSV test procedure to reference the reaffirmed industry standard, ASTM F2324–13 (2019).

DOE requests comments on its proposal to update the CPSV test procedure references to incorporate the reaffirmed industry standard ASTM F2324–13 (2019), and confirmation that such an update would not result in any substantive changes to the current test procedure.

C. Water Pressure

EPCA requires that any test procedures prescribed or amended by DOE be reasonably designed to produce test results which measure energy (and water) efficiency, energy (and water) use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) ASTM F2324–13 specifies testing with a water pressure of 60 ± 2 pounds per square inch (''psi'').[7] In the December 2015 Final Rule, DOE concluded that 60 psi is representative of the water pressures observed across the nation, based on review of water pressure data for commercial kitchens across the U.S. 80 FR 81441, 81446–81447.

In the June 2020 RFI, DOE requested comment or any data on whether the test pressure of 60 ± 2 psi continues to be representative of the average U.S. water pressures in commercial kitchen settings. 85 FR 34541, 34544.

CA IOUs and NEEA both commented that low water pressure is the leading cause of reduced user satisfaction and can lead to consumers seeking other products or retrofit alterations. (CA IOUs, No. 3 at p. 2; NEEA, No. 6 at p. 2) Citing that the range of pressures can vary, CA IOUs and NEEA recommended reducing the test pressure to 40 psi to ensure that CPSVs meet performance expectation for consumers with below-average water pressure. (CA IOUs, No. 3 at p. 1–3; NEEA, No. 6 at p. 2) CA IOUs stated that because flow rate increases with water pressure, if CPSVs can meet performance expectations at the lowest water pressure likely to be available in a building, then it is highly likely that the CPSV will also meet performance requirements at the higher water pressure. (CA IOUs, No. 3 at p. 2–3) CA IOUs and NEEA stated that lower water test pressure would ensure consumer utility, reduce user dissatisfaction, ensure higher retention rates of compliant CPSVs (and low-flow CPSVs), and prevent customers from seeking out higher flowrate valves instead. (CA IOUs, No. 3 at p. 1–3; NEEA, No. 6 at p. 2)

PMI commented that it believes the current test pressure of 60 ± 2 psi is representative and it is not aware of any data or market feedback that would warrant revising the current test pressure. (PMI, No. 5 at p. 4)

As an accompaniment to the December 2015 Final Rule, DOE provided a separate report titled ''Analysis of Water Pressure for Testing Commercial Prerinse Spray Valves Final Report,'' [8] in which DOE collected data from studies that reported operating

[7] The latest version of the industry standard, ASTM F2324–13 (2019), that DOE is proposing to incorporate by reference in this document also specifies testing with a water pressure at 60 ± 2 psi.

[8] The water pressure sensitivity analysis is available at *www.regulations.gov* under docket number EERE–2014–BT–TP–0055.

pressures and flow rates for typical CPSV applications to determine the representative water pressure for testing commercial prerinse spray valves. The report concluded that although the flow rate of CPSVs can vary by almost 40 percent when the water pressure changes from the analyzed range of 40 psi to 80 psi, the weighted average flow rate for CPSVs installed with varying supply pressures results in a 5-percent decrease in flow rate as compared to the flow rate of a CPSV installed with a water pressure of 60 psi. (Docket No. EERE–2014–BT–TP–0055–0008 at p. 4–5) Accordingly, DOE determined that 60 psi is sufficiently representative of the water pressures CPSVs will experience in the field. *Id.*

While CA IOUs and NEEA recommended updating the test pressure to 40 psi, neither provided any data to suggest 40 psi would be more representative of an average use than 60 psi. Rather, DOE understands that CA IOUs and NEEA recommended a change in test pressure to resolve concerns regarding consumer satisfaction and consumer utility primarily for low-flow CPSVs, especially at the lower end of the water pressure range. However, as noted previously, water pressure can vary based on the site of installation of CPSV. Testing a CPSV using a water pressure that represents the average of a range of typical water pressures provides a more representative result than testing at a single water pressure at one end of the range (*i.e.,* a lowest water pressure).

DOE did not receive any other comment or data suggesting a different test pressure than 60 psi that is more representative of an average use cycle. As discussed previously, the requirement in 10 CFR 431.264 to test at 60 ± 2 psi is based on ASTM F2324–13, which is an industry consensus standard. The ASTM industry-consensus process includes input from a wide variety of national stakeholders. For all the reasons DOE discussed in this section, DOE proposes to maintain the current test pressure of 60 ± 2 psi.

DOE requests additional data on water pressure for commercial kitchens across the U.S.

D. Test Procedures Costs, Harmonization and Other Topics

1. Test Procedure Cost and Impact

In this NOPR, DOE proposes to amend the existing test procedure for CPSVs by revising the definition of CPSV to clarify the scope and updating the existing references to the reaffirmed industry standard. DOE does not anticipate that the amendments proposed would impact test costs because DOE has tentatively determined that the proposed amendments would not be unduly burdensome for manufacturers to conduct and would not result in any additional cost.

DOE proposes to amend the CPSV definition by codifying in the CFR existing guidance on the application of the current definition. By codifying the guidance, manufacturers would have further certainty as to the application of the definition. This proposal would not change the scope of the definition.

Currently, DOE's test procedure for CPSVs at 10 CFR 431.263 incorporates by reference ASTM F2324–13. In this NOPR, DOE proposes to amend the existing test procedure for CPSVs by incorporating by reference the reaffirmed version of the industry standard, ASTM F2324–13 (2019). Incorporations of the reaffirmed industry standard would harmonize DOE's test procedures with the current industry practice.

DOE has tentatively determined that manufacturers would be able to rely on data generated under the current test procedure when certifying CPSVs to DOE should any of these additional proposed amendments be finalized.

DOE requests comment on its initial determination that manufacturers would not incur any additional testing costs solely due to the proposed amendments.

2. Harmonization With Industry Standards

DOE's established practice is to adopt relevant industry standards as DOE test procedures unless such methodology would be unduly burdensome to conduct or would not produce test results that reflect the energy efficiency, energy use, water use (as specified in EPCA) or estimated operating costs of that product during a representative average use cycle or period of use. 42 U.S.C. 6293(b)(3)–(4); 10 CFR 431.4 and sec. 8(c) of appendix A to subpart C of part 430. In cases where the industry standard does not meet EPCA statutory criteria for test procedures, DOE will make modifications through the rulemaking process to these standards in order to adopt them as the DOE test procedure.[9]

The test procedures for CPSVs at 10 CFR 431.264 incorporates by reference ASTM F2324–13. DOE noted in the December 2015 Final Rule that there were some inconsistencies and sources of ambiguity in the industry standard and therefore adopted several clarifications of minor issues regarding the terminology used into DOE's test procedure at 10 CFR 431.264 to improve the repeatability and consistency of the test procedure. 80 FR 81441, 81447. DOE has not proposed any updates to the clarifying language that was adopted in the December 2015 Final Rule. The industry standard DOE proposes to incorporate by reference via amendments described in this document is discussed in further detail in section III.B. DOE requests comments on the benefits and burdens of the proposed update and existing additions to the industry standard referenced in the test procedure for CPSVs.

DOE notes that the reaffirmed industry standard does not make any changes to the previous industry standard. DOE is not aware of any other industry test procedures relevant to CPSVs.

E. Compliance Date

EPCA prescribes that, if DOE amends a test procedure, all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with that amended test procedure, beginning 180 days after publication of such a test procedure final rule in the **Federal Register**. (42 U.S.C. 6293(c)(2))

If DOE were to publish an amended test procedure, EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period if the manufacturer may experience undue hardship in meeting the deadline. (42 U.S.C. 6293(c)(3)) To receive such an extension, petitions must be filed with DOE no later than 60 days before the end of the 180-day period and must detail how the manufacturer will experience undue hardship. *Id.*

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (''OMB'') has determined that this test procedure rulemaking does not constitute a significant regulatory action under section 3(f) of Executive Order (''E.O.'') 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (''OIRA'') in OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation

[9] On April 12, 2021, DOE published a NOPR which proposed revisions to 10 CFR part 430 subpart C appendix A. 86 FR 18901.

of an initial regulatory flexibility analysis (''IRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *https://energy.gov/gc/office-general-counsel.*

DOE initially concludes that the impacts of the test procedure amendments proposed in this NOPR would not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of an IRFA is not warranted. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of CPSVs must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including CPSVs. (See generally 10 CFR part 429) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

The amendment proposed in this NOPR, if made final, would not impact the reporting burden for manufacturers of CPSVs.

D. Review Under the National Environmental Policy Act of 1969

In this proposed rule, DOE proposes test procedure amendments that it expects will be used to develop and implement future energy conservation standards for CPSVs. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, DOE has determined that adopting test procedures for measuring energy efficiency of consumer products and industrial equipment is consistent with activities identified in 10 CFR part 1021, appendix A to subpart D, secs. A5 and A6. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal

agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *https://energy.gov/gc/office-general-counsel.* DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this proposed regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *https://www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1)(i) is a significant regulatory action under Executive Order 12866, or any successor order; and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

The proposed regulatory action to amend the test procedure for measuring the energy efficiency of CPSVs is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; ''FEAA'') Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry standards on competition.

The proposed modifications to the test procedure for CPSVs would incorporate testing methods contained in certain sections of the following commercial standards: ASTM F2324–13. DOE has evaluated this standard and is unable to conclude whether it fully complies with the requirements of section 32(b) of the FEAA (*i.e.,* whether it was developed in a manner that fully provides for public participation, comment, and review.) DOE will consult with both the Attorney General and the Chairman of the FTC concerning the impact of these test procedures on competition, prior to prescribing a final rule.

M. Description of Materials Incorporated by Reference

In this NOPR, DOE proposes to incorporate by reference the test standard published by ASTM International, titled ''Standard Test Method for Prerinse Spray Valves,'' ASTM F2324–13 (R2019). ASTM F2324–13 (R2019) is an industry-accepted test procedure that measures water flow rate and spray force for CPSVs and is applicable to product sold in North America. The test procedure proposed in this document references various sections of ASTM F2324–13 (R2019) that address test setup, instrumentation, test conduct, and calculations. ASTM F2324–13 (R2019) is available at ASTM's website at *www.astm.org/Standard/standards-and-publications.html.*

V. Public Participation

A. Participation in the Webinar

The time and date of the webinar are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=69&action=viewcurrent.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this proposed rulemaking, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests to speak by email to: *CPSV2019TP0025@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

Persons requesting to speak should briefly describe the nature of their interest in this rulemaking and provide a telephone number for contact. DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the webinar. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the rulemaking.

The webinar will be conducted in an informal, conference style. DOE will present summaries of comments received before the webinar, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the webinar will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the webinar.

A transcript of the webinar will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submissions of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating

organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

(1) DOE requests comments on the proposed definition of CPSVs.

(2) DOE requests comments on its proposal to update the CPSV test procedure references to incorporate the reaffirmed industry standard ASTM F2324–13 (2019), and confirmation that such an update would not result in any substantive changes to the current test procedure.

(3) DOE requests additional data on water pressure for commercial kitchens across the U.S.

(4) DOE requests comment on its initial determination that manufacturers would not incur any additional testing costs solely due to the proposed amendments.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation test procedures, Incorporation by reference, and Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on May 3, 2021 by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 4, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons stated in the preamble, DOE is proposing to amend part 431 of Chapter II of Title 10, Code of Federal Regulations as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Section 431.262 is amended by revising the definition of ''Commercial prerinse spray valve'' to read as follows:

§ 431.262 Definitions.

* * * * *

Commercial prerinse spray valve means a handheld device that has a release-to-close valve and is suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment. DOE may determine that a device is suitable for removing food residue from food service items before cleaning them in commercial dishwashing or ware washing equipment based on any or all of the following:

(1) Equipment design and representations (for example, whether equipment is represented as being capable of rinsing dishes as compared to equipment that is represented exclusively for washing walls and floors);

(2) Channels of marketing and sales (for example, whether equipment is marketed or sold through outlets that market or sell to food service entities);

(3) Actual sales.

* * * * *

■ 3. Section 431.263 is removed from under the undesignated center heading ''Test Procedures'' and revised to read as follows:

§ 431.263 Materials incorporated by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, DOE must publish a document in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza SW, Washington, DC 20024, (202) 586–1445, or email: *ApplianceStandards Questions@ee.doe.gov,* and may be obtained from the other sources in this section. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fedreg.legal@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(b) ASTM, International. 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959, (610) 832–9585, or go to *www.astm.org.*

(1) ASTM Standard F2324–13 (R2019), (''ASTM F2324''),''Standard Test Method for Prerinse Spray Valves,'' Reapproved 2019; IBR approved for § 431.264.

(2) [Reserved]

■ 4. Section 431.264 is amended by revising paragraph (b) to read as follows:

§ 431.264 Uniform test method to measure flow rate and spray force of commercial prerinse spray valves.

* * * * *

(b) *Testing and calculations for a unit with a single spray setting.* (1) *Flow Rate.*

(i) Test each unit in accordance with the requirements of sections 6.1 through 6.9 (Apparatus) (except 6.4 and 6.7), 9.1 through 9.4 (Preparation of Apparatus), and 10.1 through 10.2.5 (Procedure) of ASTM F2324, (incorporated by reference, see § 431.263). Precatory language in ASTM F2324 is to be treated as mandatory for the purpose of testing. In section 9.1 of ASTM F2324, the

second instance of ''prerinse spray valve'' refers to the spring-style deck-mounted prerinse unit defined in section 6.8. In lieu of using manufacturer installation instructions or packaging, always connect the commercial prerinse spray valve to the flex tubing for testing. Normalize the weight of the water to calculate flow rate using Equation 1, where W_{water} is the weight normalized to a 1 minute time period, W_1 is the weight of the water in the carboy at the conclusion of the flow rate test, and t_1 is the total recorded time of the flow rate test.

$$W_{water} = W_1 \, x \, \frac{60 \, s}{t_1} \qquad \text{(Eq. 1)}$$

(ii) Perform calculations in accordance with section 11.3.1 (Calculation and Report). Record the water temperature (°F) and dynamic water pressure (psi) once at the start for each run of the test. Record the time (min), the normalized weight of water in the carboy (lb) and the resulting flow rate (gpm) once at the end of each run of the test. Record flow rate measurements of time (min) and weight (lb) at the resolutions of the test instrumentation. Perform three runs on each unit, as specified in section 10.2.5 of ASTM F2324, but disregard any references to Annex A1. Then, for each unit, calculate the mean of the three flow rate values determined from each run. Round the final value for flow rate to two decimal places and record that value.

(2) *Spray force.* Test each unit in accordance with the test requirements specified in sections 6.2 and 6.4 through 6.9 (Apparatus), 9.1 through 9.5.3.2 (Preparation of Apparatus), and 10.3.1 through 10.3.8 (Procedure) of ASTM F2324. In section 9.1 of ASTM F2324, the second instance of ''prerinse spray valve'' refers to the spring-style deck-mounted prerinse unit defined in section 6.8. In lieu of using manufacturer installation instructions or packaging, always connect the commercial prerinse spray valve to the flex tubing for testing. Record the water temperature (°F) and dynamic water pressure (psi) once at the start for each run of the test. In order to calculate the mean spray force value for the unit under test, there are two measurements per run and there are three runs per test. For each run of the test, record a minimum of two spray force measurements and calculate the mean of the measurements over the 15-second time period of stabilized flow during spray force testing. Record the time (min) once at the end of each run of the test. Record spray force measurements at the resolution of the test instrumentation. Conduct three runs on each unit, as specified in section 10.3.8 of ASTM F2324, but disregard any references to Annex A1. Ensure the unit has been stabilized separately during each run. Then for each unit, calculate and record the mean of the spray force values determined from each run. Round the final value for spray force to one decimal place.

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BILLING CODE 6450–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AC94

Collateral Evaluation Requirements

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA, we, or our) proposes amendments updating our regulations on appraisal and evaluation requirements for property serving as collateral for loans made by the Farm Credit System (System). We propose reorganizing existing rules to remove redundancies and add clarity on the distinct valuation standards for each type of collateral. We also propose adding regulatory requirements for the use of automated valuation tools and releasing appraisal and evaluations to borrowers.

DATES: Comments on this proposed rule must be submitted on or before July 19, 2021.

ADDRESSES: We offer a variety of methods for you to submit comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by email or through the FCA's website. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we do not accept comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *Email:* Send us an email at *reg-comm@fca.gov.*
- *FCA website: http://www.fca.gov.* Click inside the ''I want to . . .'' field near the top of the page; select ''comment on a pending regulation'' from the dropdown menu; and click ''Go.'' This takes you to an electronic public comment form.
- *Mail:* Kevin J. Kramp, Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of all comments we receive at our office in McLean, Virginia, or on our website at *http://www.fca.gov.* Once you are in the website, click inside the ''I want to . . .'' field near the top of the page; select ''find comments on a pending regulation'' from the dropdown menu; and click ''Go.'' This will take you to the Comment Letters page where you can select the regulation for which you would like to read the public comments. We will show your comments as submitted, but for technical reasons we may omit some items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce internet spam.

FOR FURTHER INFORMATION CONTACT: *Technical information:* Darius J. Hale, Senior Policy Analyst, or Dennis K. Carpenter, Senior Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4414, TTY (703) 883–4056.

Legal information: Laura McFarland, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of this proposed rule are to:

- Improve the organization and readability of FCA appraisal and evaluation regulations;
- Clarify expectations for internal controls in appraisal and evaluation practices;
- Expand authorities on using various sources of appraisers and evaluators as well as specifically authorizing use of automated valuation tools; and
- Update existing terminology and make other grammatical changes.